

Minutes of the Board of Adjustment meeting held on Monday, October 10, 2011, at 5:30 p.m. in the Murray City Municipal Council Chambers, 5025 South State Street, Murray, Utah.

Present: Preston Olsen, Chair
Rosi Haidenthaller
Joyce McStotts
Travis Nay
Tim Tingey, Administrative & Development Services Director
Ray Christensen, Senior Planner
G.L. Critchfield, Deputy City Attorney
Citizens

Excused: Roger Ishino, Vice-Chair

The Staff Review meeting was held from 5:15 to 5:30 p.m. The Board of Adjustment members briefly reviewed the applications. An audio recording is available for review in the Community & Economic Development office.

Preston Olsen explained that variance requests are reviewed on their own merit and must be based on some type of hardship or unusual circumstance for the property and is based on state outlined criteria, and that financial issues are not considered a hardship.

APPROVAL OF MINUTES

There were no minutes to approve.

CONFLICT OF INTEREST

There were no conflicts of interest for this agenda.

CASE #1437 – PAISANO AUTO SALES – 332 West Martin Lane – Project #11-87

Peggy Stoker, Michelle and Scott Van Leeuwen were the applicants present to represent this request. Ray Christensen reviewed the location and request for a landscaping variance for property addressed 332 West Martin Lane. This property is in an M-G-C manufacturing zone. The Murray Planning Commission reviewed and approved a Conditional Use Permit for a car sales business located in the M-G-C zoning district on September 15, 2011. The applicant is requesting a landscaping variance for an auto sales business. Murray City Code Section 17.152.100.D. requires a minimum 5 foot depth landscaping where parking stalls abut property boundary lines. The conditions of approval require compliance to code with installation of the required landscaping. The applicant has subsequently submitted a request for a variance for the required landscaping at the perimeter of the property where parking stalls about the property boundaries at the north, west, and east areas of the property. The site has adequate width to install the required landscaping and meet the zoning ordinance requirements at the north and east sides of the property. The west side of the property shows a row of parallel parking stalls along the driveway that are not required to meet the parking requirements for the site. The site plan shows 23 parking stalls on the site. The applicants submitted a plan for parking along the east side of the property, clearing out the weed and overgrowth and paving it. That area would also need to have the five foot landscaping along the perimeter.

Preston Olsen asked if the applicant needs 16 parking spaces for their building size. Ray Christensen stated that the 16 parking spaces are based on the auto sales use for the property. The actual square footage of the building will need to be reviewed for office and storage.

Mr. Olsen asked about the applicants comment that the property is located on a plateau and is elevated and difficult to maintain landscaping. Mr. Christensen responded that the property is fairly level where the landscaping would be located and is possible to install.

Michele Van Leeuwen, 332 Martin Ln, stated that the property has special circumstance and is a flag lot and is difficult to access and turn around. She stated that the landscaping is meaningless to comply with the city ordinance, because the property only has 31 feet of frontage on Martin Lane. The east side landscaping would take up valuable parking. She stated the east side will not be used for parking because there has been a previous approval by Murray City to expand the building. She stated that the landscaping will not be visible from Martin Lane. She explained the reason for the parking lines in the drive way is because at the time there was a publishing company in the building with 20 employees. They were told by the City that they needed to stripe the parking within 3 days to accommodate the amount of employees or they would be against code and fined. Mr. Christensen stated that we can't find any file or plans showing the parking stall approved adjoining the west driveway.

Ms. Van Leeuwen stated that the car sales business that will be in the building will only be taking up a fourth of the total building and he plans on renting out the rest of the space, therefore needing the additional parking.

Ms. Haidenthaller asked about the approved expansion, stating that there is no information about the approved expansion of the building. Scott Van Leeuwen, 2262 East Eagles Landing Cove, stated that the meeting took place a long time ago and they had drawings stamped by the city. He stated that they were told by the city that they will have to re-apply for a new addition.

Travis Nay asked if the building permit stamp is still a valid stamp. Ms. Haidenthaller commented that after a certain amount of time a building permit expires. Mr. Van Leeuwen commented that at the time of the drawings the parking spaces were a consideration with the expansion. He said that any square footage of landscaping that takes up parking hurts them by not being able to use the full property. He said the plans were stamped and approved a long time ago.

Ms. McStotts asked the square footage of the proposed expansion. Mr. Van Leeuwen said it would be adding 33 feet to the east side on the existing 48'x60' building, adding 48'x33' and two stories.

Ms Haidenthaller asked what type of trucks will be accessing the property and how often. Mr. Van Leeuwen stated that FedExExpress and UPS trucks have a hard time turning around on the property. Peggy Stoker said that large tow vehicles would be coming to the property.

Ms. Haidenthaller clarified that the new expansion is on the east portion of the building.

Ms. Stoker stated that there was an earlier question regarding the square footage and the amount of required parking. She said the records show the building is 3880 sq ft. Using the formula of 4 parking spaces per 1,000 sq ft would require at least 12 spaces. If she is required to install the landscaping, they will lose valuable parking space and there is enough space for more parking if the landscaping is not installed.

Ms. McStotts asked if the property owners are intending to reinstate the building permit. Mr. Van Leeuwen responded that they are intending to reinstate the building permit.

Ms. Haidenthaller stated that the current amount of parking spaces required directly relates to the useable square footage of the building, so if the square footage of the building increases, the amount of parking spaces also increases. Ms. McStotts questioned if it will then change the variance and if so, the applicant may have to come back.

Tim Tingey, Director of Administrative and Development Services reiterated that the application is requesting variances on the north, east and west side. Based in the Planning Commission, they are only required to have the parking along the north side of the property to come into compliance. The code requires them to have a five foot landscaping strip on the west, north and east sides adjacent to parking areas. If there is a five foot landscaping area along the north side parking, the plans have allowed for adequate maneuver area for vehicles.

Ms. Haidenthaller asked how many other businesses in that area have a 5 foot landscaping area adjacent to the freeway. Mr. Tingey responded that it is required for all businesses unless they have received a variance. He said that landscaping is not only used as beautification of the site, but also as a buffer for adjacent property owners.

Mr. Tingey stated that State Stone Corporation submitted a letter indication concerns for this request. Ms. Stokes said that the letter had been rescinded. She said that she spoke with the owner, Keith McKay, and when he realized the applicant's property was not adjacent he then had no problems. At that point he wrote a statement at the bottom of the letter, signed and dated it. Ms. Stokes said she was not sure whether she had submitted a copy of the letter to Chad Wilkinson in the planning department. Olsen stated that Keith McKay of State Stone Corporation is a non-adjacent property owner, but the letter will stay on record until the rescind letter has been located.

Mr. Olsen said that the Boards responsibility is to determine if there are special circumstances for which the applicant should not put in the landscaping. He stated that the concern that no one sees the property is not a valid reason to not follow code. The Board is unable to take into consideration the use of the property as a basis for granting a variance.

Ms. Haidenthaller and Mr. Nay both suggested that the applicants may have a case for the west side if the building addition is approved, in which case they would need to come back in to the Board of Adjustments.

Mr. Van Leeuwen asked about withdrawing the variance request at this time, because he doesn't want to give up the possibility of an addition to his current building.

Mr. Van Leeuwen asked if the Board can postpone the variance application. Mr. Tingey reiterated that if the applicant postpones the application and the landscaping doesn't go in, the auto business cannot conduct business until a decision has been made regarding the landscaping requirement.

No public comments were made.

Ms. Haidenthaller made a motion to postpone a decision on this case per the applicant until December, so that the applicant can make a decision as to whether or not he is going to pursue the addition to the building.

Seconded by Ms. McStotts with the stipulation that the continuance not go beyond December 2011.

Call vote recorded by Ray Christensen.

A _____ Ms. McStotts

A _____ Mr. Nay

A _____ Ms. Haidenthaller

A _____ Mr. Olsen

Motion passed 4-0.

CASE# 1438 – BRIAN & MELINDA ROSE – 331 East 5300 South – Project #11-88

Brain & Melinda Rose and Chad Woolley were the applicants present to represent this request. Ray Christensen reviewed the location and request for lot width, setback and flag lot landscaping requirements in conjunction with a proposed flag lot subdivision for the property located at 331 E. 5300 South. Murray City Code Section 17.100.070 requires a minimum lot width of 80 feet for lots within the R-1-8 zoning district. Section 17.100.080 (B) requires a minimum side yard setback of 8 feet with a minimum combined total of 20 feet for the two side yards. Section 17.76.140 (H) requires a minimum access width of 28 feet for flag lots with a 20 foot paved width and 4 feet of landscaping on either side. The applicant has requested variances in anticipation of a flag lot subdivision. The applicant proposes a lot width of 75 feet and a total side yard setback of 17.5 feet for the new lot. In addition, the applicant proposes a 20 foot access width and is requesting to eliminate the required landscape areas on both sides of the access strip. The third variance request relates to the new home that requires 20 ft total side yards and 8 ft minimum. They are requesting a 2.5 ft variance. The property was previously part of a residential infill subdivision approved in May of 2010. The previous subdivision plat has not yet been recorded. The proposed flag lot would eliminate that previous approval. Based on review and analysis of the application material, subject site and surrounding area, and applicable Murray Municipal Code sections, the Community and Economic Development Staff finds that the proposed variance to lot width and flag lot landscaping meets the standards for a variance. Therefore, staff recommends approval of the requested variances to lot width and flag lot landscaping requirements, but that the proposal for a reduction in side yard setbacks does not meet the standards for a variance. Therefore, staff recommends denial of the requested variance to side yard setback requirements.

Chad Woolley, 347 East 5300 South, stated that they are withdrawing the request for the 2.5 ft. side yard setback variance and is just asking for the remaining two variance requests that staff has recommended for approval.

Brian Rose, 6232 S Short Iron Cir, stated that they will re-design a home according to setbacks and codes.

No public comment was made.

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Ms. McStotts made a motion to approve the variance request for the driveway setbacks and for the 75 ft lot width. She noted that the applicant has withdrawn the variance request for side yard setbacks on the back lot. Mr. Nay seconded the motion.

Call vote recorded by Ray Christensen.

A _____ Ms. McStotts

A _____ Mr. Nay

A _____ Ms. Haidenthaller

A _____ Mr. Olsen

Motion passed 4-0.

Ms. Haidenthaller made a motion to accept the findings of fact as written with the one change that the applicant has agreed to build within the normal 20 foot side yard setbacks for the new lot. Seconded by Ms. McStotts.

A voice vote was made. Motion passed 4-0.

Meeting adjourned.

Tim Tingey, Director
Administrative Development Services